IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

WP(C).No. 9012 of 2007(W)

PETITIONER:

P.K.VIJAYAN,
PUTHENKANDATHIL HOUSE, KUNNAPPALLY,
PERUVA P.O., KOTTAYAM.

BY ADV. SRI.P.DEEPAK

RESPONDENTS:

THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY, ERNAKULAM.

BY GOVERNMENT PLEADER SMT.N.SUDHADEVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.9012/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE REGULAR PERMIT ISSUED TO KL-05/Q/4050.

EXT.P2:- COPY OF THE APPLICATION FOR RENEWAL OF PERMIT DT.10.6.05.

EXT.P3:- COPY OF THE PROCEEDINGS OF THE RESPONDENT DT.18.1.07.

EXT.P4:- COPY OF THE APPLICATION FOR REPLACEMENT DT.19.1.07.

EXT.P6:- COPY OF THE NOC ISSUED BY THE FINANCIER DT.5.3.07.

EXT.P6:- COPY OF THE REPRESENTATIONS DT.14.3.07.

/TRUE COPY/

tss

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 9012 OF 2007-W

JUDGMENT

The petitioner was having a regular permit on the route Kottayam – Bandadukka, granted in respect of his vehicle KL-05/Q 4050. The permit was valid up to 11.9.2006. Since concurrence must be obtained from various sister R.T.As., the petitioner moved for renewal of the permit, by submitting application dated 10.6.2005. He was operating on the strength of the permits granted under Section 87(1)(d) of the Motor Vehicles Act. While so, the petitioner obtained a new vehicle with registration No. KL-36/2602. Now, he is operating the temporary permit on the basis of the said new vehicle. The petitioner moved for replacement of the old vehicle with the new vehicle obtained by him, in the above said regular permit, by submitting Ext.P4 application. Praying for a direction to the respondent to pass orders on it, this writ petition is filed.

2. The respondent has filed a statement, stating that only a holder of the permit can apply for replacement of the vehicle. The petitioner's permit has already expired. Further, one of the R.T.As has declined concurrence. The said decision has been affirmed by the S.T.A.T also. Though, the said

decision is under challenge before this Court, the fact remains that the petitioner does not have a permit at present. It cannot be said that his application for renewal is pending also. Therefore, the petitioner not being holder of a permit, the application for replacement submitted by him cannot be granted, submitted the respondent.

3. Heard the learned counsel on both sides. The petitioner is now operating on the strength of temporary permits on the route, using the new vehicle. I feel that he need not retain the old vehicle for the purpose of getting renewal of the permit and thereafter replace it with the new vehicle. At present there is no permit and therefore, the petitioner can dispose of his old vehicle, as he pleases. The same will not be a ground for rejecting his application for renewal. If, finally, the petitioner succeeds in getting renewal of the permit, at the relevant time he should be permitted to produce a suitable vehicle, for operating on the route on the strength of that permit.

With the above observation, the writ petition is disposed of.

29th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/